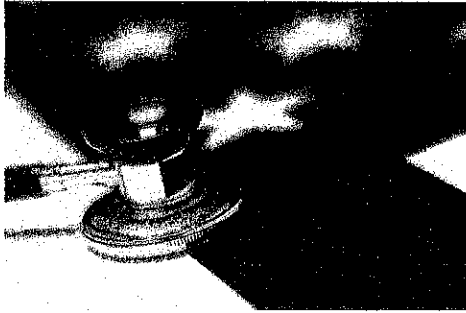


Four Things You Should Know About the Employer Mandate Delay

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On July 2, 2013 the Department of the Treasury and the White House used their blogs to announce that the employer reporting requirements, and the employer shared responsibility/play or pay penalty, are being delayed until 2015. The Treasury said that it will provide a formal announcement and additional details next week. In the meantime, UBA's experts are preparing to answer questions and issuing the most important elements employers need to know right now.

The employer shared responsibility/play or pay requirement provides that employers with 50 or more full-time or full-time equivalent employees must offer affordable, minimum value coverage to most full-time (30+ hours/week) employees or pay a penalty. That requirement was scheduled to take effect Jan. 1, 2014, although employers that met transition requirements could delay compliance until the start of the 2014 plan year. In addition, extensive reporting was expected to be required regarding the coverage offered to employees. The blogs state that (1) the reporting requirements will be provided later this summer; (2) reporting will not be required until 2015; and (3) since it is not possible to assess or enforce employer penalties without reporting, the play or pay mandate also will be delayed until 2015.

1. What's Been Delayed

The play or pay provision requires employers with 50 or more employees to do the following to avoid penalties:

1. Offer minimum essential coverage to 95 percent of full-time employees
2. Offer minimum value (60 percent) coverage to full-time employees
3. Offer affordable (less than 9.5 percent of income) coverage to full-time employees
4. Consider employees who average 30 or more hours per week full-time for purposes of their health plan

5. Count employees' hours to determine whether they average 30 or more hours work per week
6. Because of the delay, employers will not need to meet these requirements for 2014.

2. What's Still Required

The delay in the play or pay requirement does not affect the insurance market reforms. This means that these requirements are still scheduled to go into effect as of the start of the 2014 plan year (with penalties of up to \$100 per person per day for non-compliance). These requirements apply to all plans except as noted:

1. Waiting periods cannot be more than 90 days from the date the employee becomes eligible
2. All pre-existing condition limitations must be removed
3. The out-of-pocket maximum cannot exceed \$6,350 for individual and \$12,700 for family coverage
4. Essential health benefits may not have annual dollar limits
5. Grandfathered plans must cover dependent children to age 26 even if the child has access to his/her own employer-provided coverage
6. The new wellness program requirements
7. For small insured plans, whether in or outside the exchange/marketplace, coverage must include the essential health benefits, at the bronze, silver, gold or platinum level, with a deductible of not more than \$2,000 for individual and \$4,000 for family coverage
8. For small insured plans, whether in or outside the exchange/marketplace, modified community rating (rating classes are limited to age, tobacco use, family size and geographic area), guaranteed issue and guaranteed renewal (with some limitations) will apply

3. What other PPACA requirements must employers also meet:

1. Reporting and payment of the PCORI fee by July 31, 2013 for plans that ended Oct. 1, 2012 through Dec. 31, 2012
2. Timely distribution of any MLR rebates the plan may receive
3. Providing a Summary of Benefits and Coverage (SBC) as part of open enrollment
4. Distributing the DOL notice regarding the exchange by Oct. 1, 2013
5. Reporting health care costs on the employee's W-2 (the exemption for employers that issued fewer than 250 W-2s in the prior year or that contribute to a multiple employer plan will continue for the 2013 W-2)
6. Paying the transitional reinsurance fee, due in January 2015

4. What's Next?

The government stated in the delay announcements that the exchanges are still expected to begin open enrollment on Oct. 1, 2013. It is unclear at this point how the delay of the play or pay requirement will affect determination of employee eligibility for subsidies. Presumably the official guidance that Treasury has promised to provide next week will address this issue.